

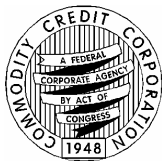


United States
Department of
Agriculture

Farm and
Foreign
Agricultural
Services

Commodity
Credit
Corporation

P.O. Box 2415
Washington,
D.C.
20250



Tobacco Transition Assessment Hearing Rules of Conduct

June 29, 2005

a) General rules applicable to appeals.

- (1) An entity may timely appeal any adverse decision with respect to the amount of an assessment levied under 7 CFR Part 1463, by submitting a written statement that sets forth the basis of the dispute to the Executive Vice President, Commodity Credit Corporation (CCC), at 1400 Independence Avenue, SW., Room 4080-S, Washington DC 20250-0514. An appeal is considered timely when personally delivered in writing to the above address or when a properly addressed request is postmarked within 30 business days of the date of receipt of the notification by CCC of its determination.
- (2) The Executive Vice President of CCC shall designate a person to act as the Hearing Officer on behalf of CCC. The duty of the Hearing Officer will be to develop an administrative record and provide a recommendation to the Executive Vice President or to a designee of the Executive Vice President. The Executive Vice President or such designee will render a final administrative determination on the matter in dispute. The Hearing Officer will conduct an informal hearing at which the appellant may present oral and written evidence in support of the appellant's position.
- (3) If the appellant requests a hearing, CCC will provide a copy of the case record to the Appellant prior to the hearing.
- (4) Appellant must provide: (A) A short statement of why the decision is wrong; (B) A copy of any document not in the CCC record that the appellant will introduce at the hearing; and (C) A list of witnesses and brief descriptions of the evidence such witnesses will offer. The Appellant must provide this information no later than 14 calendar days before the hearing date.
- (5) The Hearing Officer shall establish a hearing date within 30 calendar days of receiving the information required by the appellant in (4). The Hearing Officer must provide the appellant a notice of hearing specifying the date, time, and place of the hearing. Appellant will have the option of participating in the hearing via telephone or in person. The hearing will be conducted in Washington, DC.

(b) Conduct of the hearing.

- (1) The hearing will be conducted by the Hearing Officer in the manner determined by the Hearing Officer most likely to obtain the facts relevant to the matter or matters at issue. The Hearing Officer will allow the presentation of evidence at the hearing by any party without regard to whether the evidence was known to the officer or employee of the CCC at the time the adverse decision was made. The Hearing Officer may confine the presentation of facts and evidence to pertinent matters and exclude irrelevant, immaterial, or unduly repetitious evidence, information, or questions.

- (2) Any party shall have the opportunity to present oral and documentary evidence, oral testimony of witnesses, and arguments in support of the party's position; to controvert evidence relied on by any other party; and question all witnesses. CCC witnesses requested by the appellant will be made available at the hearing when the Hearing Officer determines it appropriate and necessary in the interest of fairness. Evidence may be received by the Hearing Officer without regard to whether that evidence could be admitted in judicial proceedings.

(c) Absence of appellant.

- (1) If at the time scheduled for the hearing the appellant is absent, the Hearing Officer may cancel the hearing and:
 - (i) Treat the appeal as a record review and issue a determination based on the CCC record as submitted, and the hearing record developed prior to the hearing date; or
 - (ii) Dismiss the appeal.
- (2) When a hearing is cancelled due to the absence of the appellant, the Hearing Officer will add to the hearing record any additional relevant evidence submitted by any party present.
- (3) Where an absent party has demonstrated good cause for the failure to appear, the Hearing Officer may reschedule the hearing unless all parties agree to proceed without a hearing.

(d) Post-hearing procedure.

The Hearing Officer may leave the hearing record open after the hearing for such additional period of time as the Hearing Officer may establish, to allow the submission of post hearing briefs or additional evidence, to the extent necessary to respond to new facts, information, arguments, or evidence presented or raised at the hearing. Any such new information must be sent by the party submitting the material to all other parties involved in the appeal and such information will be a part of the hearing record. The Hearing Officer will permit responses, in the manner determined appropriate by the Hearing Office, to the post-hearing submissions.

(e) Burden of proof.

The appellant has the burden of proving by a preponderance of evidence that the adverse decision of the CCC was factually incorrect, contrary to statute, or contrary to regulations.

(f) Timing of issuance of determination.

CCC will issue a notice of the determination on the appeal to the named appellant not later than 30 calendar days after a hearing or the closing date of the hearing record in cases in which the Hearing Officer receives additional evidence from the CCC or appellant after a hearing. In the event CCC has not rendered a decision by such date, all administrative remedies available to the appellant shall be deemed to be exhausted.